

Amendment No. 1 to HB2803

Coleman
Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 2676*

House Bill No. 2803

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 40, Chapter 39, is amended by adding the following as a new part 4:

Section 40-39-401.

This part shall be known and may be cited as the "Tennessee Animal Abuser Registry of 2008".

Section 40-39-402.

The general assembly finds and declares that:

(a) Studies in psychology, sociology and criminology have demonstrated that violent offenders frequently have childhood and adolescent histories of serious and repeated animal cruelty;

(b) The Federal Bureau of Investigation has recognized this connection since the 1970's, when its analysis of the lives of serial killers suggested that most had killed or tortured animals during their life;

(c) Other research has shown consistent patterns of animal cruelty among perpetrators of more common forms of violence, including child abuse, spouse abuse, and elder abuse, leading the American Psychiatric Association to consider animal cruelty as one of the diagnostic criteria of conduct disorder;

(d) It is a compelling and necessary public interest that the public have information concerning persons convicted of severe animal abuse offenses collected pursuant to this part, to allow

members of the public to adequately protect themselves and their animals from these persons;

(e) Persons convicted of these offenses involving cruelty and violence have a reduced expectation of privacy because of the public's interest in public safety;

(f) In balancing the abuser's due process and other rights against the interests of public security, the general assembly finds that releasing information about certain animal abusers under the circumstances specified in this part will further the primary governmental interest of protecting vulnerable populations from potential harm;

(g) The registration of abusers, utilizing complete and accurate information, along with the public release of specified information concerning abusers, will further the governmental interests of public safety and public scrutiny of the criminal and mental health systems that deal with these abusers;

(h) To protect the safety and general welfare of the people of this state, it is necessary to provide for continued registration of abusers and for the public release of specified information regarding abusers. This policy of authorizing the release of necessary and relevant information about abusers to members of the general public is a means of assuring public protection and shall not be construed as punitive; and

(i) The general assembly also declares, however, that in making information about certain abusers available to the public, the general assembly does not intend that the information be used to inflict retribution or additional punishment on those abusers.

Section 40-39-403.

As used in this part, unless the context otherwise requires:

(1) “Animal abuser” or “abuser” means a person who has been convicted in this state of committing an animal abuse offense as defined in subdivision (2); or has another qualifying conviction as defined in subdivision (3);

(2) “Animal abuse offense” means the commission of any act that constitutes the criminal offense of:

(A) Aggravated cruelty to animals, under § 39-14-212;

(B) Animal fighting, under § 39-14-203, where the defendant’s act constituted a felony; and

(C) Bestiality, under § 39-14-214.

(3) “Conviction” means a judgment entered by a Tennessee court upon a plea of guilty, a plea of nolo contendere, or a finding of guilt by a jury or the court, notwithstanding any pending appeal or habeas corpus proceeding arising from the judgment. A conviction includes, but is not limited to, a conviction by a federal court or military tribunal, including court-martial conducted by the armed forces of the United States, and a conviction in any other state of the United States, other jurisdiction, or other country. A conviction for an offense committed in another jurisdiction that would be classified as an animal abuse offense under subdivision (2), if committed in this state, shall be considered a conviction for the purposes of this part. Conviction includes a disposition of pretrial diversion under § 40-15-105, a disposition of judicial diversion under § 40-35-313, or the equivalent dispositions from other jurisdictions;

(4) “Primary residence” means a place where the person abides, lodges, resides, or establishes any other living accommodations in this state for five (5) consecutive days;

(5) “Resident” means any person who abides, lodges, resides, or establishes any other living accommodations in this state;

(6) "Secondary residence" means a place where the person abides, lodges, or resides, or establishes any other living accommodations in this state for a period of fourteen (14) or more days in the aggregate during any calendar year, and that is not the person's primary residence; for a person whose primary residence is not in this state, a place where the person is employed, practices a vocation, or is enrolled as a student for a period of fourteen (14) or more days in the aggregate during any calendar year; or a place where the person routinely abides, lodges, or resides for a period of four (4) or more consecutive or nonconsecutive days in any month and that is not the person's primary residence, including any out-of-state address;

(7) "Student" means a person who is enrolled on a full-time or part-time basis, in any public or private educational institution, including any secondary school, trade or professional institution or institution of higher learning;

(8) "TBI" means the Tennessee bureau of investigation;

(9) "Within forty-eight (48) hours" means a continuous forty-eight-hour period, not including Saturdays, Sundays, or federal or state holidays.

Section 40-39-404.

(a) Beginning July 1, 2008, the clerk of court in which a person's conviction for an animal abuse offense occurs shall forward, electronically or otherwise, to the Tennessee bureau of investigation a copy of the judgment document of the conviction, the abuser's home address, and other information set out in subsection (b) for each person convicted of a animal abuse offense. The information shall be forwarded to the bureau within forty-five (45) days of the date of judgment.

(b) This registry shall be maintained by the Tennessee bureau of investigation and made available for public inquiry on the Internet.

(c) The registry shall consist of the person's name, date of birth, residential address, all animal abuse offense convictions, conviction dates, county and state of convictions, the person's photograph and such other identifying data as the bureau of investigation determines is necessary for the public to properly identify the person, but shall not include the person's social security number. The TBI may use the driver license photograph of the abuser maintained by the department of safety for the registry. If no driver license photograph is available, the TBI shall use the photograph taken at the abuser's booking

Section 40-39-405.

(a)

(1) Within forty-eight (48) hours of changing a primary or secondary residence, the abuser shall notify TBI of the change of address.

(2) An abuser from another state, jurisdiction, or country who has established a primary or secondary residence within this state, or has established a physical presence at a particular location, shall, within forty-eight (48) hours of establishing residency or a physical presence, notify the TBI of the person's presence in this state.

(3) An abuser from another state, jurisdiction, or country, who is not a resident of this state, shall, within forty-eight (48) hours of employment, commencing practice of a vocation or becoming a student in this state, notify the TBI of the person's presence in this state.

(4) Abusers who do not maintain either a primary or secondary residence, as defined in this part, shall be considered homeless, and are subject to the registration requirements of this part.

Section 40-39-406.

(a) Any animal abuser who is subject to registration pursuant to this party shall be assessed a fee of fifty dollars (\$50.00), which shall be taxed as costs.

(b) The fee taxed pursuant to subsection (a) shall be retained by the clerk transmitting the information to the TBI for the sole purpose of defraying the costs of administering this part.

Section 40-39-407.

The Tennessee bureau of investigation shall remove from the registry the name and other identifying information of any person who has not been convicted of an animal abuse offense for a period of ten (10) years from the date of the person's most recent conviction.

Section 40-39-408.

(a) It is an offense for an abuser to knowingly violate any provision of this part. Violations shall include, but not be limited to, the following:

- (1) Falsification of information supplied to the TBI;
- (2) Failure to timely disclose required information to the TBI;
- (3) Failure to pay the initial registration fee or the annual administrative costs, if financially able;

(b) A violation of this part is a Class E felony punishable by fine only. All fines collected for violations of this part shall be earmarked for the TBI and used exclusively by the TBI to defray its costs of implementing and administering this chapter.

(c) A violation of this part is a continuing offense. If an abuser is required to register pursuant to this part, venue lies in any county in which the abuser may be found or in any county where the violation occurred.

Section 40-39-409.

Upon receipt of notice of the death of a registered abuser, as evidenced by a death certificate, the TBI shall remove all data pertaining to the deceased abuser from the registry.

SECTION 2. For purposes of the TBI implementing the provisions of this act, it shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, including registration of animal abusers, it shall take effect July 1, 2008.